35 S.Ct. 140, 59 L.Ed. 385

Exhibit A3 Cause #

KeyCite Yellow Flag - Negative Treatment
Declined to Extend by County of Fond du Lac v. Derksen, Wis.App., May 29, 2002

35 S.Ct. 140
Supreme Court of the United States.

JOHN T. HENDRICK, Plff. in Err.,
v.
STATE OF MARYLAND.

No. 77.
|
Argued November 11 and 12, 1914.
|
Decided January 5, 1915.

Synopsis
IN ERROR to the Circuit Court of Prince George's County, State of Maryland, to review a conviction for violating the state motor vehicle law. Affirmed.

The facts are stated in the opinion.

West Headnotes (5)

[1] **Commerce** Nonexercise of Power by Congress

In the absence of federal legislation, the state can prescribe uniform regulations reasonably necessary as to operation on their highways of automobiles moving in interstate commerce.

72 Cases that cite this headnote

[2] **Commerce** Motor Vehicles and Carriers

Requirements of Laws Md.1910, c. 207, for registering automobiles at a cost varying according to the horse power, and for the driver to obtain a license, and that nonresidents, to have a limited use of the highways without cost, must have complied with a similar law in their respective states and have secured a tag, are not unreasonable as to vehicles moving in interstate commerce.

235 Cases that cite this headnote

[3] **Commerce** Motor Vehicles and Carriers

Rights of citizens to pass through the several states held not unconstitutionally interfered with by Laws Md.1910, c. 207, § 140a, relating to use of highways of the state by nonresident owners of automobiles.

69 Cases that cite this headnote

[4] **Constitutional Law** Discrimination in General

An automobile owner cannot complain of discrimination, under Laws Md.1910, c. 207, for licensing automobiles because the fee is graduated according to the horse power where the power of his car does not appear.

21 Cases that cite this headnote

[5] **Constitutional Law** Motor Vehicles

A resident of the District of Columbia, failing to show compliance with the laws of the District as to registering automobiles and licensing operators, or that he has applied for local identifying tags, required by Laws Md.1910, c. 207, § 140a, to a limited use of the highways by nonresidents, cannot complain that residents of the District are not among those to whom this privilege is granted.

72 Cases that cite this headnote

Attorneys and Law Firms

****140 *611** Messrs. **Osborne I. Yellott, Jackson H. Balston,** Clement L. Bouvé, and William E. Richardson for plaintiff in error.

***613** Mr. **Edgar Allan Poe,** Attorney General of Maryland, and Mr. **Enos S. Stockbridge** for defendant in error.

Opinion

***618** Mr. Justice **McReynolds** delivered the opinion of the court:

Plaintiff in error was tried before a justice of the peace, Prince George's county, Maryland, upon a charge of violating the motor vehicle law. A written motion to quash the warrant because of conflict between the statute and the Constitution of the United States was denied; he was found quilty and fined. Thereupon an appeal was taken to the circuit court,-the highest in the state having jurisdiction,-where the cause stood for trial *de novo* upon the original papers. It was there submitted for determination by the court upon an agreed statement of facts grievously verbose, but in substance as follows:

The cause was originally brought July 27, 1910, before a justice of the peace for Prince George's county by the state against John T. Hendrick for violating § 133 of the motor vehicle law effective July 1, 1910. He is and then was a citizen of the United States, resident and commorant ***619** in the District of Columbia. On that day he left his office in Washington in his own automobile and drove it into Prince George's county, and while temporarily there was arrested on the charge of operating it upon the highways without having procured the certificate of registration required by § 133 of the motor vehicle law. He was brought before a justice of the peace and fined $15 after having been found guilty of the charge set out in a warrant duly issued,-a motion to quash having been denied. Whereupon he filed his appeal. At the time and place ****141** aforesaid he had not procured the certificate of registration for his automobile required by § 133. Upon the foregoing the court shall determine the questions and differences between the parties and render judgment according as their rights in law may appear in the same manner as if the facts aforesaid were proven upon the trial. Either party may appeal.

The Maryland legislature, by an act effective July 1, 1910 (chap. 207, Laws 1910, p. 177), prescribed a comprehensive scheme for licensing and regulating motor vehicles. The following summary sufficiently indicates its provisions:

The governor shall appoint a commissioner of motor vehicles, with power to designate assistants, who shall secure enforcement of the statute. Before any motor vehicle is operated upon the highways the owner shall make a statement to the commissioner and procure a certificate of registration; thereafter it shall bear a numbered plate. This certificate and plate shall be evidence of authority for operating the machine during the current year (§ 133). Registration fees are fixed according to horsepower-$6 when 20 or less; $12 when from 20 to 40; and $18 when in excess of 40 (§ 136). No person shall drive a motor vehicle upon the highway until he has obtained at a cost of $2 an operator's license, subject to revocation for cause ***620** (§ 137). Any owner or operator of an automobile, nonresident of Maryland, who has complied with the laws of the state in which he resides requiring the registration of motor vehicles, or licensing of operators thereof, etc., may, under specified conditions, obtain a distinguishing tag and permission to operate such machine over the highways for not exceeding two periods of seven consecutive days in a calendar year without paying the ordinary fees for registration and operator's license (§ 140a); but residents of the District of Columbia are not included amongst those to whom this privilege is granted (§ 132). Other sections relate to speed, rules of the road, accidents, signals, penalties, arrests, trials, fines, etc. All money collected under the provisions of the act go to the commissioner, and, except so much as is necessary for salaries and expenses, must be paid into the state treasury to be used in construction, maintaining, and repairing the streets of Baltimore and roads built or aided by a county or the state itself. Section 140a is copied in the margin.[1]

***621** Plaintiff in error maintains that the act is void because-it discriminates against residents of the District of Columbia; attempts to regulate interstate commerce; violates the rights of citizens of the United States to pass into and through the state; exacts a tax for revenue-not mere compensation for the use of facilities-according to arbitrary classifications, and thereby deprives citizens of the United States of the equal protection of the laws.

If the statute is otherwise valid, the alleged discrimination against residents of the District of Columbia is not adequate ground for us now to declare it altogether bad. At most they are entitled to equality of treatment, and in the absence of some definite and authoritative ruling by

the courts of the state we will not assume that, upon a proper showing, this will be denied, The record fails to disclose that Hendrick had complied with the laws in force within the District of Columbia in respect of registering motor vehicles and licensing operators, or that he applied to the Maryland commissioner for an identifying tag or marker,-prerequisites to a limited use of the highways without cost by residents of other states under the plain terms of ****142** § 140a. He cannot therefore set up a claim of discrimination in this particular. Only those whose rights are directly affected can properly question the constitutionality of a state statute, and invoke our jurisdiction in respect thereto. New York ex rel. Hatch v. Reardon, 204 U. S. 152, 161, 51 L. ed. 415, 422, 27 Sup. Ct. Rep. 188, 9 Ann. Cas. 736; Williams v. Walsh, 222 U. S. 415, 423, 56 L. ed. 253, 256, 32 Sup. Ct. Rep. 137; Collins v. Texas, 223 U. S. 288, 295, 296, 56 L. ed. 439, 443, 444 32 Sup. Ct. Rep. 286; ***622** Missouri, K. & T. R. Co. v. Cade, 233 U. S. 642, 648, 58 L. ed. 1135, 1137, 34 Sup. Ct. Rep. 678, and cases cited.

The movement of motor vehicles over the highways is attended by constant and serious dangers to the public, and is also abnormally destructive to the ways themselves. Their success depends on good roads, the construction and maintenance of which are exceedingly expensive; and in recent years insistent demands have been made upon the states for better facilities, especially by the ever-increasing number of those who own such vehicles. As is well known, in order to meet this demand and accommodate the growing traffic the state of Maryland has built and is maintaining a system of improved roadways. Primarily for the enforcement of good order and the protection of those within its own jurisdiction the state put into effect the abovedescribed general regulations, including requirements for registration and licenses. A further evident purpose was to secure some compensation for the use of facilities provided at great cost from the class for whose needs they are essential, and whose operations over them are peculiarly injurious.

In the absence of national legislation covering the subject, a state may rightfully prescribe uniform regulations necessary for public safety and order in respect to the operation upon its highways of all motor vehicles,-those moving in interstate commerce as well as others. And to this end it may require the registration of such vehicles and the licensing of their drivers, charging therefor reasonable fees graduated according to the horse-power of the engines,-a practical measure of size, speed, and difficulty of control. This is but an exercise of the police power uniformly recognized as belonging to the states and essential to the preservation of the health, safety, and comfort of their citizens; and it does not constitute a direct and material burden on interstate commerce. The reasonableness of the state's action is always subject to ***623** inquiry in so far as it affects interstate commerce, and in that regard it is likewise subordinate to the will of Congress. Barbier v. Connolly, 113 U. S. 27, 30, 31, 28 L. ed. 923-925, 5 Sup. Ct. Rep. 357; Smith v. Alabama, 124 U. S. 465, 480, 31 L. ed. 508, 513, 1 Inters. Com. Rep. 804, 8 Sup. Ct. Rep. 564; Lawton v. Steele, 152 U. S. 133, 136, 38 L. ed. 385, 388, 14 Sup. Ct. Rep. 499; New York, N. H. & H. R. Co. v. New York, 165 U. S. 628, 631, 41 L. ed. 853, 854, 17 Sup. Ct. Rep. 418; Holden v. Hardy, 169 U. S. 366, 392, 42 L. ed. 780, 791, 18 Sup. Ct. Rep. 383; Lake Shore & M. S. R. Co. v. Ohio, 173 U. S. 285, 298, 43 L. ed. 702, 707, 19 Sup. Ct. Rep. 465; Chicago, B. & Q. R. Co. v. McGuire, 219 U. S. 549, 568, 55 L. ed. 328, 338, 31 Sup. Ct. Rep. 259; Atlantic Coast Line R. Co. v. Georgia, 234 U. S. 280, 291, 58 L. ed. 1312, 1317, 34 Sup. Ct. Rep. 829.

In Smith v. Alabama, 124 U. S. 465, 480, 31 L. ed. 508, 513, 1 Inters. Com. Rep. 804, 8 Sup. Ct. Rep. 564, consideration was given to the validity of an Alabama statute forbidding any engineer to operate a railroad train, without first undergoing an examination touching his fitness, and obtaining a license, for which a fee was charged. The language of the court, speaking through Mr. Justice Matthews, in reply to the suggestion that the statute unduly burdened interstate commerce and was therefore void, aptly declares the doctrine which is applicable here. He said:

'But the provisions on the subject contained in the statute of Alabama under consideration are not regulations of interstate commerce. It is a misnomer to call them such. Considered in themselves, they are parts of that body of the local law which, as we have already seen, properly governs the relation between carriers of passengers and merchandise and the public who employ them, which are not displaced until they come in conflict with express enactments of Congress in the exercise of its power over commerce, and which, until so displaced, according to the evident intention of Congress, remain as the law governing carriers in the discharge of their obligations, whether engaged in the purely internal commerce of the state or in commerce among the states.'

The prescribed regulations upon their face do not appear to be either unnecessary or unreasonable.

In view of the many decisions of this court there can be ***624** no serious doubt that where a state at its own expense furnishes special facilities for the use of those engaged in commerce, interstate as well as domestic, it may exact compensation therefor. The amount of the

charges and the method of collection are primarily for determination by the state itself; and so long as they are reasonable and are fixed according ****143** to some uniform, fair, and practical standard, they constitute no burden on interstate commerce. Parkersburg & O. River Transp. Co. v. Parkersburg, 107 U. S. 691, 699, 27 L. ed. 584, 587, 2 Sup. Ct. Rep. 732; Huse v. Glover, 119 U. S. 543, 548, 549, 30 L. ed. 487, 490, 7 Sup. Ct. Rep. 313; Monongahela Nav. Co. v. United States, 148 U. S. 312, 329, 330, 37 L. ed. 463, 469, 13 Sup. Ct. Rep. 622; Minnesota Rate Cases (Simpson v. Shepard) 230 U. S. 352, 405, 57 L. ed. 1511, 48 L.R.A.(N.S.) 1151, 33 Sup. Ct. Rep. 729, and authorities cited. The action of the state must be treated as correct unless the contrary is made to appear. In the instant case there is no evidence concerning the value of the facilities supplied by the state, the cost of maintaining them, or the fairness of the methods adopted for collecting the charges imposed; and we cannot say from a mere inspection of the statute that its provisions are arbitrary or unreasonable.

There is no solid foundation for the claim that the statute directly interferes with the rights of citizens of the United States to pass through the state, and is consequently bad according to the doctrine announced in Crandall v. Nevada, 6 Wall. 35, 18 L. ed. 745. In that case a direct tax was laid upon the passenger for the privilege of leaving the state; while here the statute at most attempts to regulate the operation of dangerous machines on the highways, and to charge for the use of valuable facilities.

As the capacity of the machine owned by plaintiff in error does not appear, he cannot complain of discrimination because fees are imposed according to engine power. Distinctions amongst motor machines and between them and other vehicles may be proper,-essential, indeed,-and those now challenged are not obviously arbitrary or oppressive. The statute is not a mere revenue measure, ***625** and a discussion of the classifications permissible under such an act would not be pertinent.

There is no error in the judgment complained of, and it is accordingly affirmed.

All Citations

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Footnotes

1 ‘140a. Any owner or operator not a resident of this state, who shall have complied with the laws of the state in which he resides, requiring the registration of motor vehicles or licensing of operators thereof and the display of identification or registration numbers on such vehicles, and who shall cause the identification numbers of such state, in accordance with the laws thereof, and none other, together with the initial letter of said state, to be displayed on his motor vehicle, as in this subtitle provided, while used or operated upon the public highways of this state, may use such highways not exceeding two periods of seven consecutive days in each calendar year, without complying with the provisions of §§ 133 and 137 of this subtitle, if he obtains from the commissioner of motor vehicles and displays on the rear of such vehicle a tag or marker which the said commissioner of motor vehicles shall issue in such form and contain such distinguishing marks as he may deem best; provided that if any nonresident be convicted of violating any provisions of §§ 140b, 140c, 140d, 140e, and 1401 of this subtitle, he shall thereafter be subject to and required to comply with all the provisions of said §§ 133 and 137 relating to the registration of motor vehicles and the licensing of operators thereof; and the governor of this state is hereby authorized and empowered to confer and advise with proper officers and legislative bodies of other states of the Union, and enter into reciprocal agreements under which the registration of motor vehicles owned by residents of this state will be recognized by such other states, and he is further authorized and empowered, from time to time, to grant to residents of other states the privilege of using the roads of this state as in this section provided in return for similar privileges granted residents of this state by such other states.’